

same district, and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

- (2) Notice of public hearing shall have been given as in Section 92.5.2(2) above.
- (3) The Board shall make findings that the requirements set forth in Section 92.5.4(1) have been met; that the reasons set forth in the application justify the granting of the variance; and that the granting of such variance is in harmony with the spirit of this ordinance and will not be injurious to the neighborhood.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Section 91.5 - Penalties hereof. (63-93)

92.5.5

Abatement of Nuisances

The Board of Adjustment may require the conduct of any use, conforming or nonconforming, which results in unreasonable noise, smoke, gas, vibration, fumes, dust, fire, or explosion hazard or nuisance to surrounding property to be modified or changed to abate such hazard to health, comfort, and convenience. The Board of Adjustment may direct the Building Inspector to issue an abatement order, but such order may be directed only after a public hearing by the said Board, notice of which shall be sent by registered mail to the owners and/or operators of the property on which the use is conducted in addition to due notice by advertisement in a newspaper of general circulation; such notification shall be mailed at least seven (7) days prior to the date of such public hearing. A hearing to consider issuance of an abatement order shall be held by the Board of Adjustment either upon petition signed by any person affected by the hazard or nuisance or upon the initiative of the Board. An abatement order

ARTICLE 93 SEVERABILITY .

Should any section or provision of this ordinance be held void or invalid, it shall not affect the validity of any other section or provision thereof which is not of itself void or invalid, it being the purpose and intention of the City Council to enact each separate section and/or sub-section separately.
(63-93)

ARTICLE 94 REPEAL OF EXISTING ZONING ORDINANCES

All zoning ordinances heretofore adopted are hereby repealed, with the exception of those ordinances relating to Fire Districts and Airport Obstruction Zoning.
(63-93)

ARTICLE 95 EFFECTIVE DATE

This ordinance shall take effect and be in force from and after the date of its adoption.

Adopted this the 21st day of March, 1963.

(Signed) HOMER WHITT
President of the City Council

Approved this the 21st day of March, 1963.

(Signed) R.B. SEARCY
Mayor

Attest:

(Signed) QUINCY B. LOVE
City Clerk-Treasurer

ORDINANCE NO. 96-1008AN ORDINANCE TO AMEND THE ZONING ORDINANCES OF THE
CITY OF HUNTSVILLE, ALABAMA

The public welfare requiring it, and under authority granted by Section 11-52-78 of the 1975 Code of Alabama, BE IT ORDAINED by the City Council for the City of Huntsville, Alabama, that the Zoning Ordinance of the City of Huntsville, Alabama, as adopted on the 21st day of March 1963, as amended, is hereby further amended as follows:

Section 1. Amend ARTICLE 3 - DEFINITIONS, Section 3.1 - Interpretation, by adding the following new definitions:

Amateur Radio Service Tower - A tower supporting only those antennas used for amateur radio service, for other non-revenue generating radio system services utilized strictly for personal use, public service, volunteer and community activities, and for receive-only antennas.

Antenna - A device used to transmit and/or receive radio frequency signals.

Broadcast Services - The transmission of television and radio programming to reach the general public. For the purposes of this ordinance, towers supporting VHF and UHF television and FM radio transmitting antennas shall be regulated as broadcast towers as shall any other towers that require an elevated site to broadcast programming to the general public. AM radio broadcast towers, which do not require elevated sites, exceptionally tall towers or line of sight transmission, shall be regulated as for mobile and fixed point radio service towers.

Commercial Mobile Radio Services - Encompasses those mobile services that are operated for profit, are connected to a telephone exchange network, and are available to the general public; includes services such as cellular telephone, personal communication services (PCS), specialized mobile radio (SMR), and paging.

DBS - Direct broadcast satellite services; a satellite system with sufficient power to allow small earth stations to be used for reception of compressed video signals.

Earth station - A facility that transmits and/or receives radio signals to and/or from a satellite.

FAA - Federal Aviation Administration.

FCC - Federal Communications Commission.

Fixed Point Radio Services - Encompasses non-mobile common carriers and multipoint distribution service operations that require fixed transmitting and receiving facilities, such as fixed point microwave and multipoint multichannel distribution services (MMDS).

Mobile Radio Services - A radio communication service that operates between mobile and fixed stations or between mobile stations. Mobile radio includes personal wireless services and private mobile radio services.

MMDS - Multichannel multipoint distribution services (also called wireless cable).

PCS - Personal communications services.

Personal Wireless Services - Includes commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services as defined by the Federal Communications Commission.

Portable Tower, Mobile Tower or Truck Mounted Tower - Towers designed to be portable, whether or not the facility of which they are a part is permanently affixed to the ground, a building, or other permanent structure and utilized to supplement the service of a personal wireless service provider on a temporary basis.

Private Mobile Radio Services - Includes mobile radio services such as two-way radio used by public safety, special emergency, land transportation, and industrial radio service users.

Radio - Generic term referring to the communication of impulses, sounds and pictures through space by means of electromagnetic waves.

Transmitter - Equipment that generates radio signals for transmission via antenna.

TVBS - Television broadcast station.

Wireless Telecommunications - Any transmission or reception of signs, signals, writing, images, sounds, and/or data of any nature by means of the electromagnetic spectrum. Wireless telecommunications include but are not limited to cellular telephone, personal communication services (PCS), commercial and

private mobile radio, paging, public safety, fixed point microwave, amateur radio, radio and television broadcasting, satellite services such as direct broadcast satellite (DBS), and multichannel multipoint distribution services (MMDS).

Wireless Telecommunications Tower - A structure, such as a self-supporting lattice tower, a guyed tower, or a monopole, designed and constructed primarily for the purpose of supporting one or more antennas, which may include accessory facilities necessary for equipment storage and unmanned operations.

Section 2. Amend ARTICLE 20 - NEIGHBORHOOD BUSINESS C-1 DISTRICT REGULATIONS, Section 20.1 - Uses Permitted by amending the following uses:

Radio or television studios and transmitting facilities.
to read as follows:

Radio and television studios but not including broadcast towers.

Amend ARTICLE 21 - NEIGHBORHOOD BUSINESS C-1A DISTRICT REGULATIONS, Section 21.1 - Uses Permitted by amending the following uses:

Radio and television studios and transmitting facilities.
to read as follows:

Radio and television studios but not including broadcast towers.

Amend ARTICLE 24 - HIGHWAY BUSINESS C-4 DISTRICT REGULATIONS, Section 24.1 - Uses Permitted by amending the following uses:

Radio and television studios and transmitting facilities.
to read as follows:

Radio and television studios but not including broadcast towers.

Amend ARTICLE 43 - AIRPORT INDUSTRIAL PARK DISTRICT REGULATIONS, Section 43.1 - Uses Permitted by amending the following uses:

Heliport, nuclear reactor, radio or television broadcasting studios and transmitters and towers--provided such uses are in accordance with Section 43.7 hereof.

to read as follows:

Heliports and radio and television studios but not including broadcast towers--provided such uses are in accordance with Section 43.7 hereof.

Amend ARTICLE 50 - RESEARCH PARK DISTRICT REGULATIONS, Section 50.1 - Uses Permitted by amending the following uses:

Heliports, radio or television broadcasting studios and transmitters and towers--provided such uses are in accordance with Section 50.2 hereof.

to read as follows:

Heliports and radio and television studios but not including broadcast towers--provided such uses are in accordance with Section 50.2 hereof.

Amend ARTICLE 51 - RESEARCH PARK WEST DISTRICT REGULATIONS, Section 51.1 - Uses Permitted, by amending the following use:

Telecommunications.

to read as follows:

Telecommunications businesses, excluding radio and television studios.

Amend ARTICLE 52 - RESEARCH PARK APPLICATIONS' DISTRICT REGULATIONS, Section 52.1 - Uses Permitted by amending the following uses:

Radio and television broadcasting.

to read as follows:

Radio and television studios but not including broadcast towers.

Section 3. Amend ARTICLE 73 - SUPPLEMENTARY REGULATIONS, Section 73.9 - Height Modifications, subsection 73.9.1 to read as follows:

73.9.1 Except as provided in Sections 73.9.2 and 73.20 hereof, the height limitations of this ordinance shall not apply to church spires, barns, silos, monuments, missiles, flag poles, antennas, penthouses and domes not used for human occupancy, nor to chimneys, water tanks, and necessary mechanical appurtenances usually carried above the roof level. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose they are to serve and shall not exceed in cross-sectional area twenty percent (20%) of the ground floor area of the building.

Section 4. Amend ARTICLE 73 - SUPPLEMENTARY REGULATIONS, by adding new section 73.20 - Wireless Telecommunications Towers, to read as follows:

73.20 Wireless Telecommunications Towers

The regulations of this section are intended to provide for the growing need for telecommunications towers and antennas while minimizing any adverse environmental, aesthetic and visual impacts through careful design, siting, and landscape screening; to promote and encourage shared use (co-location) of existing and new towers and sites; to avoid potential damage to adjacent properties from tower failure or falling ice; to protect the health, safety and welfare of the general public; and to preserve the character of residential districts through judicious permitting of towers within such districts.

73.20.1 Applicability: Towers

Wireless telecommunications towers shall be permitted according to their function and location as provided herein:

(1) Towers in Non-residential Districts

AM radio broadcast towers, a tower erected primarily for the use of mobile or fixed point radio service antennas, or any other telecommunications tower not otherwise covered by Section 73.20.1 that will accommodate multiple users shall be permitted in non-residential zoning districts subject to these regulations and any other applicable codes and regulations.

(2) Single User Towers

A special exception shall be required to

construct AM radio broadcast towers, a tower erected primarily for the use of mobile or fixed point radio service antennas; or any other telecommunications tower not otherwise covered by Section 73.20.1 in any non-residential district if it will not be designed, constructed, and available to accommodate multiple users.

Tower applicants, except those for AM radio broadcast towers, must demonstrate an inability to locate on existing towers or other structures accompanied by supporting documentation as specified in Section 73.20.16 - Co-Location. (See Section 92.5.3(20) hereof.)

(3) Towers in Residential Districts

A special exception shall be required to locate or construct a tower erected for the support of personal wireless service antennas in any residential district. (See Section 92.5.3(9) hereof.)

(4) Broadcast Towers

A special exception shall be required to construct a broadcast tower in any district if it will support one or more UHF or VHF television or FM radio transmitting antennas or other broadcast antennas having similar elevation and height requirements. (See Section 92.5.3(21) hereof.)

(5) Existing Towers

All telecommunications towers existing on the effective date of this ordinance that have been lawfully erected shall be allowed to continue as non-conforming uses, provided they continue to meet or exceed current federal standards and regulations, as amended, and the provisions of Section 73.20.8 - Structural Design of Towers hereof. Such towers shall be permitted to accommodate additional antennas and any necessary new construction if such antennas and new construction do not increase the tower height beyond that allowed by the FCC or the FAA or by Sections 92.5.3(9)(e) or

73.20.7 - Tower Height or beyond the existing height if already in excess of the allowable height. Any new construction that would increase tower height or alter the structural strength or configuration of the tower will require the tower to be brought into compliance with the provisions of this ordinance except for Section 73.20.3 - Setbacks.

(6) Amateur Towers in Residential Districts

Amateur radio towers are permitted in any residential district subject to the following conditions:

- (a) One tower may be installed in the rear yard as an accessory structure to a licensed operator's legal residence, and all guy wires and anchors must be contained on the lot and may not extend closer than five feet to any boundary line of the lot.
- (b) The tower and antennas shall not exceed one hundred (100) feet in height.
- (c) Amateur radio towers shall be used exclusively for amateur radio antennas; for other non-revenue generating radio system antennas used strictly for personal use, public service, volunteer, and community activities; and for receive-only antennas. No amateur radio tower shall support any antenna being used for a revenue producing or business activity.
- (d) A building permit must be issued prior to installation of an amateur radio tower.

(7) Amateur Towers in Non-residential Districts

Amateur radio towers may be located in non-residential districts if they comply with Sections 73.20.3-Setbacks; 73.20.4-Lighting; 73.20.5-Color; 73.20.6-Site Security; 73.20.7-Height; 73.20.8-

Structural Design; 73.20.9-Signs;
7.20.10- Access; 73.20.11-Landscaping;
73.20.14-Abandonment; and 73.20.15-
Publicly Owned Property hereof and have
been issued a building permit.

(8) Portable or Mobile Towers

Portable or mobile towers may be utilized only for special, short term events attracting large numbers of people or for emergency situations; the provider must be issued a temporary use permit by the Building Inspector prior to siting of the portable facility, and the permit must specify the permitted location and the permitted dates of operation not to exceed ten days. The Building Inspector shall collect a \$100 application fee each time a portable tower is permitted for a period not to exceed ten days.

(9) Accessory Towers

A tower that is accessory to a business or other non-residential entity on the same lot in a non-residential district and that is for the exclusive use of the principal entity, its branches and its employees shall:

- (a) not exceed one hundred (100) feet in height,
- (b) not be permitted to carry other transmitting antennas, .
- (c) have all guy anchors located at least ten (10) feet inside the lot lines, and
- (d) have been issued a building permit prior to installation.

73.20.2 Applicability: Antennas

Except for replacements of preexisting antennas that neither alter height, configuration or structural integrity of the support structure nor increase radio frequency emissions, all telecommunications antennas installed following

adoption of this ordinance shall comply with one of the following provisions:

- (1) Tower supported antennas that will be attached to existing, lawfully erected, towers shall be issued building and other required permits prior to installation subject to compliance with subsections 73.20.8(2) and 73.20.17(9) hereof.
- (2) Building or ground mounted antennas shall comply with the provisions of Section 73.20.12 - Antennas hereof.

73.20.3 Setbacks

- (1) The minimum setback for a tower shall be twenty-five percent (25%) of the tower height unless a greater setback is required by the regulations for the district in which the tower is located; however, no tower shall be located closer than two hundred feet (200') to any residential district nor closer than a distance equal to the height of the tower to any residential structure.
- (2) Towers located on the leased portion of a larger lot shall not be constructed in any required yard of the lot; towers shall not be located on the same lot with a residential structure.
- (3) Tower setbacks from the property lines of the lot on which the tower is located shall be measured from the perimeter of the tower base.
- (4) Guyed towers shall have their guy anchors located on the tower site at least ten feet from any lot line, and guy wires shall not cross any adjoining property, rights-of-way or public easements without prior approval of the owner of the public easement.
- (5) Setbacks shall in all cases be sufficient to contain on site all ice-fall unless adequate provisions have been incorporated to prevent the buildup of ice.
- (6) Minimum setbacks for accessory structures

constructed in conjunction with a tower shall be as established by the zoning district for principal buildings or be at least twenty-five feet (25') if no setback is required by the district.

73.20.4 Lighting

- (1) Towers shall not be artificially illuminated except as required by the Federal Aviation Administration or the Federal Communications Commission. Any required lighting shall be the minimum necessary to comply with federal regulations.
- (2) All security lighting must be contained within the fenced area and must not illuminate higher than ten feet.

73.20.5 Tower Color

Towers shall have a galvanized finish or be painted a silver, pale blue or gray; any regulation of the FAA or FCC that contradicts this requirement shall govern.

73.20.6 Site Security

The facility shall be fully secured. A chain link fence or a wall not less than eight (8) feet in height from finished grade shall be provided around each tower and all accessory structures. Access to the tower shall be through a locked gate. Where guy anchors are not contained within the security fence, a separate fence at least eight feet (8') in height shall be provided around each anchor. Towers without accessory structures may utilize anti-climb devices in place of a fence.

73.20.7 Tower Height

- (1) Towers in C-1 through C-3 districts shall not exceed 120 feet in height; towers in other non-residential districts shall not exceed one hundred eighty (180) feet in height.
- (2) Measurement of tower height shall include antennas, base pad, and other appurtenances

and shall be measured from the natural grade of the site.

73.20.8 Structural Design of Towers

- (1) Towers shall meet or exceed the structural requirements as set out in EIA/TIA-222-E "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures," as amended, published by the Electronic Industries Association and all applicable City of Huntsville building codes.
- (2) Any improvements and/or additions (antennas, dishes, etc.), excluding the repair and replacement of parts or components that do not increase tower height or alter the structural strength or configuration of the tower, to existing towers shall require that a notarized verification of compliance with the EIA/TIA-222-E Standards in effect at the time of the improvement or addition be submitted to the Building Inspector by the owner and a registered professional engineer.
- (3) Commercial towers 180 feet in height or less, except for accessory towers as described in Section 73.20.1(9), shall be monopoles unless the applicant can demonstrate that the specific conditions require another tower type.
- (4) Tower diameter at the base shall not be greater than required for the permitted tower height.

73.20.9 Signs

No signs shall be allowed on any tower or antenna.

73.20.10 Access

- (1) Where the lot on which a tower is to be erected does not meet the minimum lot area requirement for the zoning district or does not have frontage on the public road from which it derives access, then building permits shall not be issued for any

structures other than telecommunications towers and the unmanned accessory facilities required for equipment storage and tower operation. This use restriction must be made a part of any plat or deed describing this lot until such time as the lot comes into compliance with the zoning regulations.

- (2) Whenever a tower site does not have frontage on the public street from which it derives access, a permanent, twenty-foot (20') wide access easement shall be required.

73.20.11 Landscaping

A landscape buffer shall be required in all districts and shall effectively screen the view of the tower facility from public ways and adjacent properties.

- (1) The buffer shall be installed on the outside of the security fence.
- (2) The buffer shall consist of a minimum ten-foot (10') wide landscaped strip planted with an attractive combination of trees, shrubs, vines and/or ground covers.
- (3) Minimum required plantings include:
 - (a) A row of evergreen trees a minimum of eight feet tall when planted placed a maximum of ten feet apart;
 - (b) A continuous hedge of evergreen shrubs at least thirty inches high at planting placed in front of the tree line; and
 - (c) All plant materials shall be xeriscape tolerant.
- (4) Where towers are located on wooded sites:
 - (a) Tree cutting shall be limited to the area to be fenced and a five-foot (5') buffer along the outside of the fence. If the accessway must be cleared of trees, then tree cutting shall be

limited to the minimum width necessary to provide vehicular access to the tower facility but shall not exceed fifteen feet (15') in width.

- (b) Preservation of the natural vegetation surrounding the fenced area shall be substituted for the landscape buffer if it screens the compound from view from adjacent development and rights-of-way.
- (5) All landscaping must be installed in accordance with the provisions of Section 73.19 - Installation of Landscaping.
- (6) The owner of the tower shall be responsible for providing and maintaining all landscaping in a healthy and growing condition and replacing unhealthy or dead plants by the next growing season with plants that conform to the original intent of these regulations for as long as the tower stands.

73.20.12 Antennas

- (1) Non-residential districts: An antenna that is not attached to a tower shall be permitted on non-residential structures or be ground mounted provided:
 - (a) The antenna and its supporting structure, when attached to a non-residential structure, do not exceed twenty feet (20') in height;
 - (b) The antenna complies with all applicable FCC and FAA regulations;
 - (c) The antenna does not extend into the air space above any public right-of-way nor extend any closer than ten (10) feet to the boundary of the lot on which the structure is located;
 - (d) The support structure for the antenna and any facilities or equipment necessary for its operation comply with all applicable building codes and have received appropriate permits;

- (e) The antenna will be, and will remain, in compliance with current FCC standards concerning radio frequency emissions;
 - (f) The antenna site is not within the boundaries of a National Register historic district; and
 - (g) Satellite earth station antennas having a diameter greater than two meters, and DBS and MMDS antennas having a diameter greater than one meter:
 - (i) if attached to a building are placed to minimize their visibility from adjacent streets, or
 - (ii) if ground mounted meet required yard setbacks or have a setback of ten feet from lot lines if no setbacks are specified for the district, and
 - (iii) are not located in front yards unless visually screened from public rights of way.
- (2) Residential districts: An antenna that is not attached to a tower shall be permitted under the following conditions:
- (a) Personal wireless service antennas shall be permitted on principal, non-residential structures provided the antenna is in compliance with conditions (a) through (f) of Section 73.20.12(1) above.
 - (b) Satellite dishes, DBS, and MMDS receiving antennas having a diameter greater than one meter shall:
 - (i) be regulated as accessory structures,
 - (ii) be approved by the Huntsville Historic Preservation Commission if located in a National

Register historic district at a
site visible from a public
place, and

(iii) be issued a building permit
prior to installation.

- (3) Masts greater than twelve feet in height used to support satellite dishes, television receiving antennas, or other antennas in non-residential districts shall require a building permit to insure safety of installation and shall not exceed twenty feet in height.

Masts used to support receive-only antennas in residential districts shall not exceed twelve feet in height.

- (4) Microwave dishes shall be of mesh or open grid construction whenever technically feasible and be colored to minimize their visibility.
- (5) Signs shall not be allowed on any antenna.
- (6) Receive-only antennas intended solely for the use of the occupants of the building or residence to which they are accessory shall be permitted when in compliance with the applicable provisions of this ordinance.

73.20.13 Non-Conforming Towers

A telecommunications tower legally erected prior to adoption of these regulations that is damaged or destroyed to an extent of fifty percent (50%) or more of its replacement cost at the time of destruction may be reconstructed on its original site in conformity with the provisions of this ordinance. A building permit to reconstruct the facility shall comply with the then applicable standards, codes, and regulations, and shall be obtained within one hundred eighty (180) days from the date the facility is damaged or destroyed. If no permit is obtained or if the permit expires, the telecommunications facility shall be deemed to be abandoned.

73.20.14 Abandonment

- (1) Any tower that has not been in use for its original telecommunications purpose for a period of one hundred eighty (180) days shall be deemed to be abandoned. The tower owner shall have an additional ninety (90) days to remove an abandoned tower and any accessory structures or to reactivate the tower or to transfer the tower to another owner/operator who reactivates it. Removal of abandoned towers and accessory structures shall be at the owner's expense.
- (2) Each January every tower owner, with the exception of amateur radio operators, shall provide the Building Inspector with a list of all towers owned during the previous twelve months indicating the date of cessation of operation for any inactive towers, the date of dismantling for removed towers, the date of transfer of towers to other owners, and a certification that each standing tower is in compliance with Section 73.20.8 - Structural Design of Towers accompanied by a copy of the annual maintenance inspection report.

73.20.15 Publicly Owned Property

- (1) A tower to be located on land owned by any governmental entity or public agency shall comply with these regulations unless the tower and all antennas thereon are for the exclusive use of the public entity occupying or controlling the property.
- (2) Towers to be located on property owned by the City of Huntsville, other than rights of way, shall be subject to all applicable requirements of the Zoning Ordinance and other city codes.
- (3) Neither towers nor antennas shall be placed in city rights of way without the approval of the Huntsville City Council.

73.20.16 Co-Location

To minimize the adverse visual, aesthetic and environmental impacts associated with the proliferation of towers, co-location of antennas by more than one user on existing or permitted

towers shall take precedence over the construction of new towers. Towers shall be designed to maximize shared use to the extent possible for the type of tower proposed without creating structural instability or electromagnetic interference with other antennas on the tower.

- (1) Subject to Section 73.20.16(2), no new tower shall be permitted unless the applicant demonstrates by sufficient documentary evidence that at least one of the following conditions is applicable:
 - (a) No existing towers or suitable structures are located within the geographic area required to meet applicant's engineering requirements, and no such towers are under consideration for building permits.
 - (b) Existing towers or other structures are not of sufficient height and cannot be reasonably altered to meet applicant's engineering requirements.
 - (c) Existing towers or other structures do not have sufficient structural strength and cannot be reasonably altered to support applicant's proposed antenna and related equipment.
 - (d) The proposed antenna would cause electromagnetic interference with existing antenna(s) on the tower or structure, or the existing antenna(s) would cause interference with the proposed antenna and the interference cannot be prevented at a reasonable cost.
 - (e) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
 - (f) Co-location would have a more detrimental environmental, aesthetic, or visual impact on the surrounding area than would construction of a new

tower.

- (2) Even if an applicant is able to demonstrate the existence of one of the foregoing conditions, a new tower may not be permitted if it is determined that the proposed location of the tower is not essential to the applicant to provide service in a given geographical area, and the tower would:
 - (a) interfere with or endanger the use of other telecommunication facilities; or
 - (b) endanger persons or property; or
 - (c) not be compatible with existing or proposed adjacent development; or
 - (d) have an impermissible environmental, visual, or aesthetic impact on the surrounding area.
- (3) Written requests by certified mail to co-locate on an existing or proposed tower shall be answered by the tower owner within thirty days of receipt of the request. Denial of a request without substantial documentary evidence as required herein demonstrating why co-location would not be possible or failure to respond to a request shall be a violation of the Zoning Ordinance.

73.20.17 Building Permits for Towers

Each application for a building permit for a tower, other than an amateur or accessory radio service tower, or for a structure accessory to such a tower shall contain the following information as appropriate:

- (1) A site plan drawn to scale and identifying the tower lot boundary and the tower site boundary, if different, and all required setbacks; location, type and height of tower(s); guy anchors; location, use and dimensions of existing and proposed structures; vehicular parking and access; existing vegetation to be retained; topography of the site; fences; adjacent

land uses and current zoning.

- (2) A copy of the subdivision plat, deed, and/or memorandum of lease for the tower site; provided however, the Building Inspector may require a copy of the lease agreement if necessary to verify compliance with this ordinance.
- (3) A plan drawn to scale showing proposed landscaping, if required, including species type, size, and spacing.
- (4) A report from a registered professional engineer indicating tower height and design, structure, installation, and total number and types of antennas that could be accommodated.
- (5) A notarized letter signed by both the owner and a registered professional engineer stating that the tower complies with all EIA/TIA-222-E Standards, as amended.
- (6) A signed affidavit from the applicant verifying the inability to locate the proposed antennas on existing towers or other structures accompanied by supporting documentation as specified in Section 73.20.16 - Co-Location.
- (7) A letter of intent stating whether the applicant intends to lease space on the tower to other potential users at reasonable rates and on reasonable terms. The letter shall commit the tower owner and successors in interest to:
 - (a) Negotiate in good faith for shared use by third parties.
 - (b) Allow shared use if an applicant agrees in writing to pay reasonable rental charges or other consideration.
 - (c) Make no more than a reasonable charge for shared use based on generally accepted industry standards and impose no terms or conditions that would render co-location impractical.

- (8) Documentation demonstrating that the proposed site is required to serve the company's planned network or coverage in the city.
- (9) A notarized statement signed by the applicant that the tower facility will conform with applicable FCC standards for radio frequency emissions and copies of any federally required studies or measurements of radio frequency emissions.
- (10) If federal regulations require an Environmental Assessment, then a copy of the EA shall be submitted as part of the application.
- (11) Documentation demonstrating the amount of liability insurance to be carried by the owner on the proposed tower.
- (12) The FCC assigned frequency for the licensed service, and a copy of all permits, approvals, or licenses issued by the FCC or the FAA in connection with the proposed tower.
- (13) The Building Inspector shall act upon any application for authorization to place, construct or modify any personal wireless service facility within a reasonable period of time after the application and all required supporting documentation is duly filed, taking into account the nature and scope of such application.

A decision by the Building Inspector to grant or deny an application to place, construct, or modify any personal wireless service facility shall be in writing and supported by substantial evidence contained in the record.

Section 5. Amend ARTICLE 74 - NON-CONFORMING LOTS; NON-CONFORMING USES OF LAND; NON-CONFORMING STRUCTURES; AND NON-CONFORMING USES OF STRUCTURES AND PREMISES, by adding new Section 74.8 - Telecommunications Towers Inventory to read as follows:

74.8 - Telecommunications Towers Inventory

The owner of each telecommunications tower erected within the Huntsville, Alabama, corporate limits prior to adoption of this amendment to the Zoning Ordinance shall submit the following information to the City of Huntsville Building Inspector within six months of the date of adoption of this amendment. Failure to comply with this inventory shall be a violation of the Zoning Ordinance.

- 74.8.1 Name, address and telephone number of tower owner.
- 74.8.2 Location of the tower by street address and legal description.
- 74.8.3 Date of construction of tower.
- 74.8.4 Height of tower from natural grade to the highest point whether of the tower or of an antenna, and the elevation of each existing antenna or array of antennas.
- 74.8.5 Names of all users having co-located antennas on the tower.
- 74.8.6 Copies of all federal approvals, permits and licenses for the tower.
- 74.8.7 Approval dates for any variances or special exceptions granted for the tower or its accessory structure.

Section 6. Amend ARTICLE 92 - BOARD OF ADJUSTMENT, Section 92.5.3 - Permitted Uses as Special Exceptions, by amending Subsection (9) to read as follows:

- (9) Towers intended to support personal wireless service antennas in any residential district; approval shall be subject to the conditions contained in Sections 73.20.4 - Lighting, 73.20.5 - Tower Color, 73.20.6 - Site Security, 73.20.8 - Structural Design of Towers, 73.20.9 - Signs, 73.20.10 - Access, 73.20.11 - Landscaping, 73.20.16 - Co-Location, and 73.20.17 - Building Permits for Towers of this ordinance, and to the following conditions:
 - (a) Towers must be monopoles and must be designed to implode under stress; antennas used must be of the least visually obtrusive design available at the time of application.

- (b) A signed affidavit from the applicant verifying the inability to locate the proposed antennas on existing towers or other structures accompanied by supporting documentation as specified in Section 73.20.16 - Co-Location, and including substantial evidence that the tower cannot, by technical necessity, feasibly be located in a non-residential district.
- (c) Any new tower permitted must be designed to accommodate personal wireless service antennas for at least one additional user for a reasonable fee if technically feasible.
- (d) Accessory facilities shall be fully automated and shall not include offices, vehicle storage, outdoor storage, or broadcast studios.
- (e) Tower heights shall not exceed one hundred (100) feet.
- (f) Setbacks for towers shall be at least fifty feet (50') from all lot lines, and setbacks for accessory structures shall be a minimum of twenty (20) feet from all lot lines or as required for primary structures in the district if greater.
- (g) Towers shall not be permitted within the boundaries of any historic district listed on the National Register nor shall towers be located on the same lot with a residential structure.
- (h) Accessory buildings and security fences or walls shall be constructed so as to be compatible with the surrounding residential neighborhood by virtue of their design, materials, textures, and colors.
- (i) New towers permitted on mountain tops or slopes should be clustered with existing towers, if any, to the extent that such location is technically feasible and safe as well as aesthetically, environmentally and visually compatible.
- (j) The Board of Adjustment shall act upon any application for authorization to place,

construct or modify any personal wireless service facility, whether for a special exception or a variance, within a reasonable period of time after the application and all required supporting documentation is duly filed, taking into account the nature and scope of such application.

Any decision by the Board of Adjustment to grant or deny an application to place, construct, or modify any personal wireless service facility, whether for a special exception or a variance, shall be in writing and supported by substantial evidence contained in the record.

and adding new Subsections (20) and (21) to read as follows:

- (20) AM radio broadcast towers, towers for mobile or fixed point radio antennas, and any other telecommunications towers not otherwise covered by Section 73.20.1 - ~~Applicability~~ that will not be designed, constructed, and available to accommodate multiple users for a proposed location in any non-residential district. Approval shall be subject to:
 - (a) Submittal of scaled site plans and other supporting drawings and documents sufficient to demonstrate compliance with the provisions of Section 73.20 hereof.
 - (b) Written documentation by the applicant demonstrating why installation of a single user tower would better serve the goals of the Zoning Ordinance than would a tower designed to accommodate multiple users.
 - (c) The Board of Adjustment shall act upon any application for authorization to place, construct or modify any personal wireless service facility, whether for a special exception or a variance, within a reasonable period of time after the application and all required supporting documentation is duly filed, taking into account the nature and scope of such application.

Any decision by the Board of Adjustment to grant or deny an application to place, construct, or modify any personal wireless